

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**LESLIE WAYNE BYRD,**

Petitioner,

v.

**CIVIL ACTION NO. 3:08-CV-120  
(BAILEY)**

**GEORGE TRENT,  
W.V. REGIONAL JAIL  
AND CORRECTIONAL  
FACILITY AUTHORITY,**

Respondents.

**ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Opinion/Report and Recommendation of United States Magistrate Judge John S. Kaull. By Standing Order entered on March 24, 2000, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R & R on July 31, 2009 [Doc. 21]. In that filing, the magistrate judge recommended that this Court dismiss the petitioner's Complaint.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1);

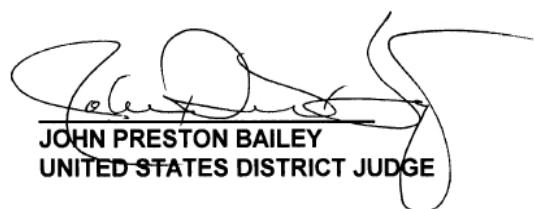
**Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R & R were due within ten days after being served with a copy, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The Court notes that service of the R & R upon the petitioner was accepted August 3, 2009. To date, neither party has filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the R & R, it is the opinion of this Court that the magistrate judge's **Opinion/Report and Recommendation [Doc. 21]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the respondent's Motion to Dismiss **[Doc. 14]** is hereby **GRANTED**; the petitioner's Complaint **[Doc. 1]** is **DISMISSED** with prejudice; and this matter is **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to mail a true copy to the *pro se* plaintiff.

**DATED:** August 24, 2009.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE